

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA

THOMAS GAVERN	)	
	)	Case Number
Plaintiff	)	
	)	CIVIL COMPLAINT
vs.	)	
	)	
CREDIT CONTROL, LLC	)	JURY TRIAL DEMANDED
	)	
Defendant	)	
	)	

**COMPLAINT AND JURY DEMAND**

COMES NOW, Plaintiff, Thomas Gavern, by and through his undersigned counsel, Bruce K. Warren, Esquire and Brent F. Vullings, Esquire of Warren & Vullings, LLP, complaining of Defendant and respectfully avers as follows:

**I. INTRODUCTORY STATEMENT**

1. Plaintiff, Thomas Gavern (hereinafter "Plaintiff"), is an adult natural person and brings this action for actual and statutory damages and other relief against Defendant for violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. ("FDCPA"), which prohibits debt collectors from engaging in abusive, deceptive and unfair practices.

## **II. JURISDICTION**

2. Jurisdiction of this court arises under 15. U.S.C. § 1692k(d) and 28 U.S.C. §1337.
3. Venue in this district is proper in that Plaintiff resides here.

## **III. PARTIES**

4. Plaintiff, Thomas Gavern, is an adult natural person residing at 1225 S Webster Avenue, Scranton, PA 18505-1726. At all times material and relevant hereto, Plaintiff is a “consumer” as defined by the FDCPA, 15 U.S.C. § 1692a (2).

5. Defendant, Credit Control, LLC at all times relevant hereto, is and was a limited liability partnership engaged in the business of collecting debt in this commonwealth, with a principal place of business located at 5757 Phantom Drive, Suite 330, Hazelwood, MO 63042.

6. Defendant is engaged in the collection of debts from consumers using the telephone and mail. Defendant regularly attempts to collect consumer debts alleged to be due to another. Defendant is a “debt collector” as defined by the FDCPA, 15 U.S.C. §1692a(6).

## **IV. FACTUAL ALLEGATIONS**

7. At all times pertinent hereto, Defendant was hired by United Debt Holdings to collect a debt relating to consumer credit card purchases that were allegedly originally owed to Bank of America.

8. On or about September 24, 2010 Plaintiff received an initial dunning notice from Defendant. See a copy of the letter appended hereto and marked "**EXHIBIT A**".

9. On or about September 29, 2010 Plaintiff received a voicemail from an agent of Defendant that is both misleading and harassing in nature.

10. In the voicemail, a man by the name of "Alberto Castillo" depicts a sense of urgency surrounding "a document that I have received in my office bearing your social security number and property address. I have been asked to make a final decision in regards to file number 5274929. At this point it is imperative that you or your legal representation contact my office at 1-866-380-6667"

11. The voicemail from Defendant's agent "Albert Castillo" is intentionally worded in such a way that Plaintiff and other consumers unfamiliar with deceptive tactics could be lured into believing the call is coming from an attorney's office.

12. The voicemail came less than one week after the date of Defendant's initial dunning letter and is not an accurate representation of an urgent matter, as Plaintiff has not yet been afforded his full thirty day time period to dispute the debt in question.

13. The Defendant acted in a false, deceptive, misleading and unfair manner by threatening to take action that it did not intend to take for the purpose of coercing Plaintiff to pay the debt.

14. The Defendant knew or should have known that their actions violated the FDCPA. Additionally, Defendant could have taken the steps necessary to bring their and their agent's actions within compliance of the FDCPA, but neglected to do so and failed to adequately review those actions to insure compliance with the law.

15. At all times pertinent hereto, Defendant was acting by and through its agents, servants and/or employees, who were acting with the scope and course of their employment and under the direct supervision and control of Defendant herein.

16. At all times pertinent hereto, the conduct of Defendant as well as its agents, servants and/or employees, was malicious, intentional, willful, reckless, negligent and in wanton disregard for federal and state law and the rights of the Plaintiff herein.

**COUNT I – FDCPA**

17. The above paragraphs are hereby incorporated herein by reference.

18. At all times relevant hereto, Defendant was attempting to collect an alleged debt which was incurred by the Plaintiff for personal, family or household purposes and is a “debt” as defined by 15 U.S.C. § 1692a(5).

19. The foregoing acts and omissions constitute violations of the FDCPA, including but not limited to, violations of 15 U.S.C. § 1692:

§ 1692d: Any conduct the natural consequence of which is to harass,  
oppress or abuse any person

§ 1692e: Any other false, deceptive or misleading representation or  
means in connection with the debt collection

§ 1692e(2): Character, amount or legal status of the alleged debt

§ 1692e(3): Any individual is an attorney or that any communication is from an  
attorney

§ 1692e(10): Any false representation or deceptive means to collect a debt or  
obtain information about a consumer



§ 1692e(14): Any name other than the true name of the debt collector's business

§ 1692f: Any unfair or unconscionable means to collect or attempt to  
collect the alleged debt

**WHEREFORE**, Plaintiff respectfully requests that this court enter judgment in his favor  
and against Credit Control, LLC for the following:

- a. Actual damages;
- b. Statutory damages pursuant to 15 U.S.C. §1692k;
- c. Reasonable attorney's fees and costs of suit pursuant to 15 U.S.C. §1692k; and
- d. Such addition and further relief as may be appropriate or that the interests of  
justice require.

**V. JURY DEMAND**

Plaintiff hereby demands a jury trial as to all issues herein.

**Respectfully submitted,**

**WARREN & VULLINGS, LLP**

**Date: October 26, 2010**

**BY: /s/ Bruce K. Warren**

Bruce K. Warren, Esquire

**BY: /s/ Brent F. Vullings**

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